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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12
13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 RICHARD DARREN HARPER,

17 Defendant.

No. CR 01-40066 CW

PLEA AGREEMENT

18 I, Richard Darren Harper, and the United States Attorney's Office for the Northern
19 District of California (hereafter "the government") enter into this written Plea Agreement (the
20 "Agreement") pursuant to Rule 11(e)(1)(B) of the Federal Rules of Criminal Procedure:

21 The Defendant's Promises

22 1. I agree to plead guilty to Counts Two and Sixteen of the captioned Indictment
23 charging me with Mail Fraud in violation of 18 U.S.C. §§ 1341 and 2, and Conspiracy to
24 Commit Money Laundering in violation of 18 U.S.C. §§ 1956(h) and 1956(a)(1)(B)(i) and 2. I
25 agree that the elements of the offenses and maximum penalties are as follows:

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a. Mail Fraud - 18 U.S.C. § 1341

1. The defendant made up a scheme or plan to obtain money or property from United Airlines by making false promises and statements;
2. The defendant knew that the promises and statements were false;
3. The promises and false statements were of a kind that would reasonably influence a person to part with money or property;
4. The defendant acted with the intent to defraud;
5. The defendant used, or caused to be used, the mails to carry out or attempt to carry out an essential part of the scheme.

Maximum Penalties

- | | |
|------------------------------------|-------------|
| 1. Maximum prison sentence | 5 years |
| 2. Maximum fine | \$250,000 |
| 3. Maximum supervised release term | 3 years |
| 4. Mandatory special assessment | \$100 |
| 5. Restitution | \$2,775,000 |

b. Conspiracy to Launder Money - 18 U.S.C. § 1956(h)

1. The defendant agreed with at least one other person to commit money laundering;
2. The defendant became a member of the conspiracy knowing that one of its objects was to launder money and intended to help accomplish it;
3. One of the members of the conspiracy conducted a financial transaction involving property that represented the proceeds of mail fraud;
4. The defendant knew that the property represented the proceeds of mail fraud;
5. The defendant knew that the transaction was designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the proceeds of the mail fraud;
6. One of the members of the conspiracy did something that was a substantial step toward committing the crime of laundering money.

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Maximum Penalties

- | | | |
|----|---------------------------------|--|
| 1. | Maximum prison sentence | 20 years |
| 2. | Maximum fine | \$500,000 or twice the value of the property involved in the transaction, whichever is greater |
| 3. | Maximum supervised release term | 3 years |
| 4. | Mandatory special assessment | \$100 |
| 5. | Forfeiture | |

2. I agree that I am guilty of the offenses to which I will plead guilty, and I agree that the following facts are true:

Between November 1997 and October 2000, I, along with Norman Jeffry Tucker, entered into a scheme and artifice to defraud United Airlines ("United") in order to obtain money and property belonging to United. I was employed by United as a buyer of small electronic components used in the maintenance of United airplanes. Legend Aero Space, LLP, ("Legend") a limited liability partnership based in Auburn, Washington, was a United supplier which was controlled by Tucker. Beginning in 1997, Tucker and I entered into an agreement in which he paid kickbacks to me in return for steering United's business to Legend.

Beginning in mid-1998, Tucker and I agreed that I would steal small, expensive electronic components which Legend had previously sold to United ("stolen parts") from United's Maintenance Operations Center at San Francisco International Airport. Tucker had provided me with Legend's Federal Express number which I used to ship the stolen parts in interstate commerce to Tucker's home or the home of his daughter. I then caused United to place orders with Legend for the re-purchase of the stolen parts. It was part of our scheme and artifice to defraud United that Tucker caused the stolen parts to be repackaged and resold to United. Tucker shipped the stolen parts to United via Federal Express. These shipments included invoices seeking payment from United for the stolen parts.

I am aware that suppliers and manufacturers of airline parts are required to maintain

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1 certain documents ("Certifications of Origination") concerning the history of parts which are
2 installed on aircraft. I learned from Tucker that, in furtherance of the scheme and artifice to
3 defraud, Tucker created false invoices and fictitious Certifications of Origin for some of the
4 stolen parts.

5 I stipulate that the total value of the stolen parts sold to United is \$2,775,000 and am
6 agreeing to pay that amount in restitution. Tucker sent thousands of dollars in cash to me in
7 Federal Express envelopes; he paid for home equity lines of credit; he provided me with a
8 Legend corporate American Express card for personal expenses; he purchased a 2000 Porsche
9 Carrera for me for \$105,932.93; and he purchased cashier's checks made payable to title
10 companies for three properties I purchased in, respectively, Truckee, California, San Clemente,
11 California, and Whistler, British Columbia, Canada. I received approximately \$2.3 million for
12 my participation in the scheme and artifice to defraud and as kickbacks in return for my
13 agreement to steer business to Legend.

14 Further, Tucker and I agreed and conspired to disguise and conceal some payments he
15 made to me which included the proceeds of the illegal scheme. I stipulate and agree that I
16 received between \$1 million and \$2 million in laundered funds from the mail fraud scheme.

17 3. I agree to give up all rights that I would have if I chose to proceed to trial,
18 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
19 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise
20 any other Fourth or Fifth Amendment claims; to any further discovery from the government, as
21 may be limited by United States v. Ruiz, 2000 WL 33201189 (9th Cir. March 5, 2001); and to
22 pursue any affirmative defenses and present evidence.

23 4. I agree to give up my right to appeal my convictions, the judgment, and orders of
24 the Court. I also agree to waive any right I may have to appeal my sentence. I agree further to
25 waive any venue or statute of limitations defenses that I might have in this case.

26 5. I agree not to file any collateral attack on my conviction or sentence, including a
27 petition under 28 U.S.C. §2255, at any time in the future after I am sentenced, except for a claim

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that my constitutional right to the effective assistance of counsel was violated.

6. I agree not to ask the Court to withdraw my guilty plea at any time after it is entered.

7. I agree that the Sentencing Guidelines should be calculated as follows:

Money laundering

a. Base Offense Level, U.S.S.G. § 2S1.1: 20

b. Specific offense characteristics:

Value of funds > \$1 million < \$ 2 million +5

Adjusted Offense Level 25

Mail fraud

a. Base Offense Level, U.S.S.G. § 2F1.1: 6

b. Specific offense characteristics:

Amount of loss > \$2.5 million < \$5 million +13

More than minimal planning +2

c. Abuse of position of trust (§ 3B1.4): +2

Adjusted Offense Level 23

Adjusted Offense Level (after Grouping §3D1.2) 27

a. Acceptance of responsibility:
(If I meet the requirements of
U.S.S.G. § 3E1.1) -3

b. Final Adjusted offense level 24

I agree that I will not ask for any adjustments to or departures from this Guideline calculation, except that if the Court finds a guideline range that is higher than is set forth above, I may move for a downward departure to level 24. I agree that I will not be able to withdraw my guilty plea if the Court denies my motion for downward departure. I further agree that, regardless of any other

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1 provision in this agreement, the government may and will provide to the Court and the Probation
2 Office all information relevant to the charged offenses or the sentencing decision. I also agree
3 that the Court is not bound by the Sentencing Guidelines calculations above, the Court may
4 conclude that a higher guideline range applies to me, and, if it does, I will not be entitled, nor will
5 I ask, to withdraw my guilty plea.

6 8. I agree that the Court may order and I will pay restitution in the amount of
7 \$2,775,000, and I agree that this amount of restitution is not limited to the loss attributable to the
8 counts to which I am pleading guilty, pursuant to 18 U.S.C. § 3663(a)(3). I also agree that the
9 properties and bank accounts described in Count Seventeen of the Indictment are subject to
10 forfeiture by the United States; that these properties and bank accounts were purchased with
11 proceeds from the scheme and artifice to defraud; and I hereby consent to forfeit any interest I
12 have or may have had in said properties. However, I understand that if I pay \$2,775,000 to
13 United as restitution on or before my sentencing, the government will dismiss Count Seventeen
14 as to me, and I understand that if I fail to pay any or all of this amount, the government will not
15 dismiss the forfeiture count. I further agree that I will make a good faith effort to pay any fine,
16 forfeiture or restitution I am ordered to pay. I will cooperate fully with the government in
17 making financial disclosures and in identifying assets traceable to the offenses in the indictment
18 and substitute assets. Before and after sentencing, I will, upon request of the Court, the
19 government, or the U.S. Probation Office, provide accurate and complete financial information,
20 submit sworn statements and give depositions under oath concerning my assets and my ability to
21 pay, surrender assets and substitute assets named in the indictment and/or obtained as a result of
22 my crimes, and release such funds and property under my control in order to pay any fine,
23 forfeiture, or restitution. I agree that I will not sell, transfer, deplete or dissipate any assets
24 without the approval of the government. I agree to pay the special assessment at the time of
25 sentencing.

26 9. I agree not to commit or attempt to commit any crimes before a sentence is imposed
27 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial

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1 release (if any); intentionally provide false information to the Court, the Probation Office,
2 Pretrial Services, or the government; or fail to comply with any of the other promises I have
3 made in this Agreement. I agree that, if I fail to comply with any promises I have made in this
4 Agreement, then the government will be released from all of its promises below, but I will not be
5 released from my guilty plea.

6 10. I agree that this Agreement contains all of the promises and agreements between
7 the government and me, and I will not claim otherwise in the future.

8 11. I agree that this Agreement binds the U.S. Attorney's Office for the Northern
9 District of California only, and does not bind any other federal, state, or local agency.

10 The Government's Promises

11 12. The government agrees not to file or seek any additional charges against me that
12 could be filed as a result of the investigation that led to the captioned indictment.

13 13. The government agrees to recommend the Guidelines calculations set out above
14 and will recommend that I pay no fine.

15 14. The government agrees, upon payment of full restitution to United in the amount
16 of \$2,775,000 as described in Paragraph 8 above, that it will dismiss count seventeen in the
17 Indictment (forfeiture) against me only. The government also agrees to dismiss the remaining
18 counts against me at the time of sentencing, regardless of the disposition of count seventeen.

19 The Defendant's Affirmations

20 15. I confirm that I have had adequate time to discuss this case, the evidence, and this
21 Agreement with my attorneys, and that they have provided me with all the legal advice that I
22 requested.

23 16. I confirm that while I considered signing this Agreement, and at the time I signed
24 it, I was not under the influence of any alcohol, drug, or medicine.

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17. I confirm that my decision to enter a guilty plea is made knowing the charges that have been brought against me, any possible defenses, and the benefits and possible detriments of proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no one coerced or threatened me to enter into this agreement.

Dated: 6/11/01
RICHARD DARREN HARPER
DefendantROBERT S. MUELLER, III
United States AttorneyDated: 6-11-01
MATTHEW J. JACOBS
Assistant United States AttorneyBRIAN STEIN
For JACOBS

I have fully explained to my client all the rights that a criminal defendant has and all the terms of this Agreement. In my opinion, my client understands all the terms of this Agreement and all the rights he is giving up by pleading guilty, and, based on the information now known to me, his decision to plead guilty is knowing and voluntary.

Dated: 6/11/01
ELLIOT PETERS
ETHAN A. BALOGH
Attorneys for Richard Darren HarperPLEA AGREEMENT
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